

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Judith Le	Team: Squad #8	CCRB Case #: 201702415	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 03/26/2017 9:23 PM	Location of Incident: § 87(2)(b)	Precinct:	18 Mo. SOL 9/26/2018	EO SOL 9/26/2018	
Date/Time CV Reported Tue, 03/28/2017 4:18 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 03/28/2017 4:18 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Charles Gove	14285	939968	047 DET

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Christan Jimenez	15314	941962	047 DET
2. POM Tyrone Hogue	24863	947773	047 DET
3. POM Brendan Reilly	09343	952155	050 DET
4. DT3 Brian McMahon	07697	901977	050 DET

Officer(s)	Allegation	Investigator Recommendation
A.POM Charles Gove	Force: Police Officer Charles Gove used physical force against § 87(2)(b)	§ 87(2)(b)
B.POM Charles Gove	Abuse: Police Officer Charles Gove threatened to arrest § 87(2)(b)	§ 87(2)(b)

Case Summary

On March 26, 2017 at approximately 9:20 p.m., PO Charles Gove, Det. Christan Jimenez, and PO Tyrone Hogue of the 47th Precinct Detective Squad, knocked on the door to § 87(2)(b). The officers were canvassing the area in search of a missing cellphone, and § 87(2)(b) answered. PO Gove explained that the officers were seeking information about a grand larceny, and § 87(2)(b) was cooperative. As § 87(2)(b) and PO Gove were speaking, PO Gove grabbed § 87(2)(b)'s wrist (**Allegation A**). § 87(2)(b) pulled his arm back, and began yelling at PO Gove for touching him. § 87(2)(b) and PO Gove went back and forth. After § 87(2)(b) accused PO Gove of acting unprofessionally, PO Gove threatened to arrest him (**Allegation B**).

There is no video footage capturing this incident. An audio recording of the entire interaction (see Board Review #1) was obtained on March 26, 2017 from § 87(2)(b)'s cellphone.

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined mediation because he wanted the officers to be disciplined.
- A BADS search revealed that § 87(2)(b) did not have any previous criminal convictions (see Board Review #2).
- As of June 28, 2017, a notice of claim has not been filed by § 87(2)(b) (see Board Review #3).

Civilian and Officer CCRB Histories

- PO Gove has been a Member of Service for 11 years and been a subject in 23 prior complaints, totaling 53 allegations. 6 of these allegations were substantiated:
 - In CCRB case 201204955 substantiated allegations of force (physical force), abuse (threat of force) and discourtesy (action) received a NYPD disposition of no disciplinary action-DUP, with no penalty.
 - In CCRB case 201307972 substantiated allegations of force (chokehold) received a NYPD disposition of not guilty, with no penalty.
 - In CCRB case 201400419 the Board substantiated allegations of abuse (vehicle stop) and abuse (vehicle search). The NYPD disposition is still pending.

PO Gove's CCRB complaint history shows § 87(2)(g) allegations of: excessive force, discourteous language, and abuse—ranging from threats of arrest to stops and refusal to provide name/shield (see Board Review #4).

- § 87(2)(b) has filed four previous complaints with the CCRB. § 87(2)(b)

§ 87(2)(b)
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§ 87(2)(b)

Findings and Recommendations

Allegation A - Force: Police Officer Charles Gove used physical force against § 87(2)(b)

Allegation B - Abuse: Police Officer Charles Gove threatened to arrest § 87(2)(b)



Audio 1.m4a

It is undisputed that PO Gove spoke to § 87(2)(b) at § 87(2)(b) about a grand larceny investigation § 87(2)(g).

In the audio provided (see Board Review #1) at the <01:40> mark, PO Gove states: Why are you shaking so much? § 87(2)(b) Why are you holding me? PO Gove: I'm not. I'm actually just holding you to see why you're shaking. At the <06:35> minute mark, PO Gove states: Listen, I apologize. But when you're shaking and an officer goes like this- § 87(2)(b) You did it again. PO Gove: I'm showing you what I'm doing. At the <06:55> minute mark, PO Gove states: I'm going to explain to you the eyes of the law. § 87(2)(b) No, that's not law, you can't just put your hands on somebody. That's not law. At the <07:38> mark, § 87(2)(b) states: Before you touch somebody, you have to let them know. PO Gove: No you don't . . . Cops don't work that way, buddy. § 87(2)(b) I know. You don't work like that. All other cops work like that. You see how this guy's being a gentleman? And the other two officers are being a gentleman? No one wants to talk to you because you don't want to listen to me. At the <08:06> mark, PO Gove: I'll freeze your location and if I have to I'll get a search warrant . . . If I find out that this is stolen materials you're under arrest. § 87(2)(b) There's nothing that I stole. PO Gove: You're under arrest. If this is stolen I'll arrest you. § 87(2)(b) You see how you are? You're threatening me now. PO Gove: Because you're not listening. You're not listening. At the <08:44> mark, § 87(2)(b) states: He put his hand on my wrist. PO Gove: Yea, I touched his wrist because he was shaking. § 87(2)(b) You can't do that to anyone. You can't do that to anybody. PO Gove: No, I can, I'm a cop. No, I can.

§ 87(2)(b) (see Board Review #6) stated that he was in the kitchen when he heard loud knocking. When he got to the front door, a voice, identified as PO Gove, identified himself as the police and said he was there to conduct an investigation. § 87(2)(b) placed his phone in his left hand, turned on the audio recorder and opened the door. PO Gove explained to § 87(2)(b) that a girls' softball team had recently been robbed and the officers had received a cell phone ping that had brought them to his address. PO Gove showed § 87(2)(b) the ping, which showed a location that was about fifty feet away from his house. PO Gove asked § 87(2)(b) if he knew anything about the robbery. § 87(2)(b) who was trying to be helpful, told PO Gove that he had found an empty purse on his driveway earlier that day, and that he had brought it into his house to see if he could mail it back or hold onto it until the owner came to pick it up. § 87(2)(b) gave PO Gove the purse.

After PO Gove took the purse from § 87(2)(b) he attempted to take § 87(2)(b)'s phone out of his left hand. § 87(2)(b) was not sure what prompted the action, since he did not think PO Gove knew he was recording the interaction, and pulled back his left hand. In turn, PO Gove grabbed

§ 87(2)(b)'s right wrist with his left hand and squeezed it for about thirty seconds. He asked § 87(2)(b) why he was shaking. § 87(2)(b) stated that he had not been shaking and PO Gove told § 87(2)(b) that he was just checking § 87(2)(b)'s pulse. § 87(2)(b) told PO Gove that he couldn't put hands on him, and PO Gove said, "Let me explain the eyes of the law to you." § 87(2)(b) told PO Gove that he could not just put his hands on someone. In response, PO Gove said he could and grabbed § 87(2)(b)'s right wrist again. § 87(2)(b) pulled his wrist back and told PO Gove he couldn't do that. PO Gove replied that he could grab him because he was a cop. § 87(2)(b) told PO Gove that he had no legal right to grab his wrist. In response, PO Gove threatened to get a search warrant and arrest § 87(2)(b). A female officer, identified as Det. Jimenez and a male officer, identified as PO Hogue then attempted to intervene. Det. Jimenez wrote her name on a card and PO Hogue explained that PO Gove had used an old school policing technique. He acknowledged that PO Gove's actions were wrong. The officers then returned to their vehicle and left.

In his detailed phone statement, § 87(2)(b) (see Board Review #7), who is § 87(2)(b)'s roommate, stated that he was in the kitchen when the police knocked on the door. His roommate, § 87(2)(b) ran from the kitchen to living room, to answer it. § 87(2)(b) could not see what was going on, but heard the officers say that they were looking for a phone that had been lost or stolen. § 87(2)(b) noted that at first the conversation between the officers and § 87(2)(b) appeared to be going smoothly, but then they began to argue. § 87(2)(b) went to the living room to see what was transpiring and saw § 87(2)(b) ask the officer why he had grabbed his wrist. The officer was being rude and saying he could do whatever he wanted. The officer also told § 87(2)(b) he was going to get a search warrant and have him arrested, for no reason at all. While § 87(2)(b) and the officer were arguing back and forth, another officer stepped in and tried to explain why the officer had grabbed § 87(2)(b) saying it was some sort of old school heartbeat technique.

§ 87(2)(b) who is § 87(2)(b)'s roommate, stated in her detailed phone statement (see Board Review #8) that when she came home on March 26, 2017, there had been a random purse in front of the house. She didn't know who it belonged to so she didn't touch it. When § 87(2)(b) came home, he brought it inside and asked § 87(2)(b) if it was hers. When she said no, he left it by the front door in case the purse's owner came back. About thirty minutes later, the police came and said that a school bus had gotten robbed. They were looking for an iPhone that was pinging in the general vicinity. § 87(2)(b) stated that she was not originally in the living room, but when she heard the arguing, she and her boyfriend, § 87(2)(b) came and stood on the stairwell. A male officer was yelling at § 87(2)(b) and tried to grab his arm. § 87(2)(b) said he couldn't touch him, and the officer replied that if he felt that § 87(2)(b) was not being honest with him, he could. § 87(2)(b) stated that when things started to get physical she ran and grabbed her iPad and began recording. A female officer told § 87(2)(b) it was okay for the officer to grab § 87(2)(b). Another officer, who § 87(2)(b) could not see, apologized for the action. The officers then told § 87(2)(b) to call them if he found out anything and then left.

PO Gove (see Board Review #9) testified that he was out with Det. Jimenez and PO Hogue when he received a text message from § 87(2)(b). PO Gove explained that a day or two prior, a girls softball team had been playing at a tournament and stopped at a McDonalds for food. When they returned to the bus, it had been broken into and someone had

taken over 900 items. Nothing had been recovered so far. § 87(2)(b) informed PO Gove a missing cellphone had returned a GPS ping and sent him a screenshot of the ping location, which appeared to be located in the center of a bridge. Because PO Gove did not know when he would be in the area to investigate, he called PO Brendan Reilly from the 50th Precinct Detective Squad on his cellphone and asked if he could head over there and conduct a quick canvass.

PO Gove then went to the location with PO Hogue and Det. Jimenez. § 87(2)(b)

They then went to the housing complex and approached § 87(2)(b)'s residence, § 87(2)(b). PO Gove knocked on the door, and § 87(2)(b) answered the door and stuck his head out. PO Gove explained to § 87(2)(b) that they were conducting a canvass for a grand larceny. As PO Gove was speaking, he could see § 87(2)(b) begin to visibly shake. PO Gove asked § 87(2)(b) if he had seen anything. § 87(2)(b) grabbed a reddish Coach bag and told PO Gove that he had found the bag earlier on his driveway and brought it inside. PO Gove took the bag and took a photo of it—which he then sent to § 87(2)(b) so she could show the softball team. As PO Gove was waiting for a response, he saw § 87(2)(b)'s arm shake, followed by his chest. He did not know if § 87(2)(b) was nervous because he was talking to the police or if he had a medical condition. PO Gove touched § 87(2)(b)'s right mid-forearm and asked him if he was okay. PO Gove noted that although he touched § 87(2)(b) he did not grab him or squeeze his arm. He could not remember if he used his whole hand or just his fingers. PO Gove analogized the gesture to touching a little kid to see if they were all right and added there was no malicious intent. He personally did not think it was problematic to touch someone to see if they were all right, and noted that he only touched § 87(2)(b) once. Immediately § 87(2)(b) became extremely irate and started telling PO Gove he couldn't touch him. PO Gove released his hand and explained to § 87(2)(b) that he had been shaking and he was nervous he was going to pass out.

After § 87(2)(b) became irate, PO Gove walked down to the street because he wanted to avoid getting into an argument. § 87(2)(b) spoke to another officer. Shortly thereafter, § 87(2)(b) responded to PO Gove and told him that the bag did not belong to any of the softball players. PO Gove then returned to speak to § 87(2)(b) who was still fixated on PO Gove touching him. PO Gove stated that he did not tell § 87(2)(b) that he had the right to touch him because he was an officer, saying, "No, what gives me the right to touch someone because I'm a cop? I would never have a conversation like that with somebody." PO Gove did not believe he ever said anything about a search warrant and that he had no reason to tell § 87(2)(b) he was going to arrest him. PO Gove stated that he eventually gave up trying to speak to § 87(2)(b) since § 87(2)(b) kept trying to talk over him.

PO Gove reviewed the audio at the <7:35> mark where he told § 87(2)(b) he would freeze the location and get a search warrant. He did not recall saying that to him, but remembered having a discussion with § 87(2)(b) about possibly freezing the location and getting a search warrant. PO Gove stated that the comments were not made in a threatening manner and he was just explaining to § 87(2)(b) what could happen. He stated that he believed at this point he knew that the bag was not affiliated with the grand larceny, but did not know the timing of the text messages. He then stated that he did not know at the time if the bag had belonged to the females. PO Gove

reviewed the audio at the <08:44> mark, but did not recall telling § 87(2)(b) that he could touch him because he was a cop. PO Gove thought he might have made the comment in the heat of the moment, while arguing with an individual during a simple canvass that turned into a huge argument.

Det. Jimenez (see Board Review #10) stated that after PO Gove got a call from one of his victims from a grand larceny case they decided to go and try to identify where the ping was coming from. When they got to the location, they did not see a cellphone in plain view, so they decided to go down into a dead-end street. There were two other officers on scene that Det. Jimenez did not recognize, and they began canvassing the area. They knocked on a house that was located closest to the location of the ping. Det. Jimenez noted that the goal of the officers was to just obtain information and engage with whoever was there. There was a sidewalk and about fifteen to twenty steps leading to the door of the house. PO Gove went to the door and was met by § 87(2)(b). Since his demeanor seemed normal, Det. Jimenez did not feel a need to get closer. She stood on the sidewalk and began looking around the grass and cars, noting that she intermittently went up to the door to check on what was going on. Det. Jimenez noted that PO Gove and § 87(2)(b) were speaking softly and she could not hear what they were saying. At some point, § 87(2)(b) showed PO Gove a woman's handbag and said that he had found it on the side of the house. Det. Jimenez noted that the purse struck her curiosity, but she was following PO Gove's lead, and went back to looking around in the grass. Shortly thereafter, § 87(2)(b) became agitated and began raising his voice. Det. Jimenez was standing on the sidewalk and could hear § 87(2)(b) say that PO Gove didn't have to touch him. Det. Jimenez did not see PO Gove make physical contact with § 87(2)(b) and didn't know what was going on. § 87(2)(b) was still carrying on about PO Gove touching him, and PO Gove was trying to ask him if he was okay because he had been shaking. At that point, Det. Jimenez decided that PO Gove wasn't getting anywhere, so she decided to interject and try to defuse the situation. § 87(2)(b) was still upset, and Det. Jimenez decided to just tell him that if anything came up, to contact her. They then left without recovering the cellphone.

PO Hogue (see Board Review #11) testified that PO Gove had a case that he was investigating involving a stolen purse and had a track on where the purse might be. He, PO Gove and Det. Jimenez went to § 87(2)(b) and they went up a staircase. § 87(2)(b) opened the door. PO Gove was standing about a foot from the vestibule and PO Hogue was standing on to the right on the staircase behind PO Gove. Det. Jimenez was behind him and they stayed behind PO Gove the entire time. PO Hogue could hear everything that was happening, and see a little bit. PO Gove was the main officer speaking to § 87(2)(b). He told him they were looking for a purse. PO Hogue stated that § 87(2)(b) appeared nervous. His hands were fidgeting and shaking and he presented a female purse. PO Gove asked § 87(2)(b) if he could come in, and as § 87(2)(b) stepped back, PO Gove reached forward and grabbed his wrist to signal, "We're not done talking yet." PO Hogue could not remember what wrist was grabbed, but noted that he only grabbed § 87(2)(b)'s wrist once. § 87(2)(b) became belligerent and started screaming, "Why you'd touch my wrist? You can't grab me." PO Hogue decided to intervene and calm § 87(2)(b) down by telling § 87(2)(b) that sometimes police officers put their hands on someone's wrist to see if their heart is beating fast, which could indicate the person was nervous. PO Hogue noted this was not a police technique he regularly used. Det. Jimenez also spoke to § 87(2)(b) and after he calmed down, PO Gove took the bag and they left.

PO Reilly (see Board Review #12) testified that he received a call from PO Gove who told him that he was tracking a cellphone for an incident bordering the 50th Precinct and Yonkers and needed an additional car. PO Reilly followed PO Gove and two other officers from the 47th Precinct Detective Squad from Mclean Ave. where they were canvassing to § 87(2)(b). They went to a house that appeared to be in the location of the GPS ping. There was a purse in the middle of the driveway and someone picked it up to voucher it. PO Reilly was standing about fifteen feet away on the street and he could hear the officers ask § 87(2)(b) about the purse in the driveway. PO Gove appeared to be the main officer speaking to § 87(2)(b). At one point, PO Gove touched § 87(2)(b)'s arm in a friendly manner, like, "Hey, it's not a big deal," but did not remember hearing PO Gove saying anything about the man shaking. The officers and § 87(2)(b) then continued talking, but PO Reilly could not hear what was being said. When they were done with the conversation, they left the scene.

Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. If the force used is unreasonable under the circumstances, it will be deemed excessive and in violation of Department policy (see Board Review #13).

§ 87(2)(g)

[REDACTED]

Patrol Guide Procedure 208-01 states that a uniformed officer may make an arrest with a warrant or without a warrant when there is reasonable cause to believe an offense has been committed in his presence, or for a crime (within presence or not) where reasonable cause exists that the arrested person committed the crime (see Board Review #14).

§ 87(2)(g)

[Redacted text block]

Squad: 8

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date